

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

First named Applicant: Venkata R. Jagana	Group Art Unit: 2143
Application No.: 09/686,049 (CONF 4959)	
Filed: 10/11/2000	
Title: System for host-to-host connectivity using FICON protocol over a storage area network	Examiner: LaShonda T. Jacobs
Attorney Docket No.: BEA9-2000-0005-US1	

Assistant Commissioner for Patents  
Washington, D.C. 20231

**REPLY BRIEF**

This Reply Brief is responsive to the Examiner's Answer mailed November 15, 2007, in the present appeal. Applicant makes three comments in response to the Examiner's Answer. First, the Examiner has made new arguments not presented during the course of prosecution. Second, Bradley in view of Latif, even in consideration of these new arguments, does not teach a storage-area network to which two host devices are connected, in contradistinction to the claimed invention. Third, Bradley in view of Latif, even in consideration of these new arguments, does not teach that two host devices communicate with one another over the element in the prior art that the Examiner has correlated to the storage-area network of the invention, also in contradistinction to the claimed invention. Each of these comments is now discussed in detail.

*New arguments have been presented in the Examiner's Answer*

Throughout the course of prosecution, the Examiner interpreted Bradley in view of Latif by specifically relying upon columns 1 and 2 of Bradley in particular. Indeed, in the Answer, the Examiner continues to rely upon these columns of Bradley on pages 4 and 5. However, in refuting Applicant's argument on pages 8-9 of the Answer, the Examiner introduces a new argument based on columns 4 and 5 of Bradley. Applicant has not had an opportunity to review and reply to this argument during the course of prosecution, even though the Examiner had ample opportunity to introduce this argument in various office actions, inasmuch as Applicant's

fundamental argument has not changed throughout prosecution. This fact should be taken into account during the Board's consideration of the present appeal. It appears that the Examiner concluded that her original arguments do not suffice to overcome Applicant's arguments, and therefore the Examiner has felt it necessary to shift her arguments underlying the rejection under 35 USC 103(a) over Bradley in view of Latif. Nevertheless, as explained in the following two comments, Applicant believes that the Examiner's new arguments are ultimately as unpersuasive as her original arguments are.

*Bradley in view of Latif does not teach a storage-area network connecting host devices, period*

In FIG. 2A of Bradley, two host devices 202a and 202b are depicted as being connected to a subnet 200. For Bradley in view of Latif to read on the claimed invention, the subnet 200 in particular has to be a storage-area network. However, nowhere does Bradley disclose this, nowhere does Latif disclose this, and nowhere does the Examiner indicate that one of ordinary skill within the art would be prompted to modify the subnet 200 of Bradley to be a storage-area network so that Bradley in view of Leaf reads on the claimed invention. This is in contradistinction to the Supreme Court decision *KSR Int'l Co. v. Teleflex, Inc.*, 550 US \_\_\_\_\_ (2007), in which the Court noted that the Examiner must "identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does." (*Id.*, at 15.)

The Examiner has correctly indicated on page 8 of the Answer that column 4, lines 30-52 of Bradley suggests that an *end node* of its system (where the host devices 202a and 202b may be considered end nodes – see col. 5, ll. 15-18) may be a storage-area network. However, that one of the host devices 202a and 202b may be a SAN does not mean that Bradley in view of Latif reads on the claimed invention. For Bradley in view of Latif to read on the claimed invention, it is the *subnet 200*, and not the *host devices 202a and 202b*, that has to be a SAN. Bradley in view of Latif does not suggest this, and the Examiner has not identified a reason that prompts one of ordinary skill within the art to modify the subnet 200 of Bradley in view of Latif in this way. Therefore, *prima facie* obviousness has not been shown.

The Examiner, however, seems to suggest that the Bradley teaches that the subnet can be a storage-area network, by intimating on page 8 of the Answer that “Bradley teaches a subnet that uses the Future I/O fabric, which may be a SAN to allow hosts to communicate with other nodes over the subnet,” citing column 4, lines 30-52 and column 5, lines 11-37. This is in fact not what Bradley discloses in this excerpt, and Applicant strongly urges the Board to review these portions of Bradley for itself. The only recitation of a storage-area network in Bradley is the disclosure that an “end node may be a Future I/O adapter . . . or a computer system, where the computer system may be . . . a cluster of single entities such as a storage area network (SAN).” (Col. 4, ll. 48-52.)

Thus, in contradistinction to the statements made by the Examiner, Bradley first does *not* teach a subnet that “uses” the Future I/O Fabric.” Rather, Bradley teaches that one of the end nodes, such as one of the host devices 202a and 202b, may be a Future I/O Fabric. The implementation of these end nodes has nothing to do with the subnet itself. Second, Bradley does not teach that the Future I/O fabric “may be a SAN.” Rather, Bradley teaches that an end node may be a Future I/O adapter or a computer system, where the computer system may be a storage-area network. While these two points do not really speak to interpretation of Bradley in view of Latif in relation to the claimed invention, they do illustrate specific examples of how the Examiner has misconstrued the prior art in attempting to erroneously show that Bradley in view of Latif reads on the claimed invention.

Most importantly, in contradistinction to the statements made by the Examiner, Bradley third does *not* teach “a SAN to allow hosts to communicate with other nodes over the subnet.” There is simply no basis in column 4, lines 30-52 or in column 5, lines 11-37 for this statement by the Examiner. Bradley, and thus Bradley in view of Latif, simply say that that end nodes, such as the host devices 202a and 202b (again, see col. 5, ll. 15-18, where Bradley says these hosts are types of end nodes), may *themselves* be storage-area networks. Bradley, and thus Bradley in view of Latif, do not anywhere teach that the host devices communicate over a subnet that is a SAN.

Applicant respectfully submits that the Examiner is too loosely interpreting Bradley in view of Latif in an attempt to shoehorn this combination of references into the explicit claim

limitations of the claimed invention. The claimed invention is limited to two host devices, and a storage-area network to which the host devices are connected. Bradley in view of Latif teaches two host devices 202a and 202b connected to a subnet 200, in FIG. 2A of Bradley. Bradley in view of Latif does not teach, suggest, or disclose anywhere that the subnet 200 may be a storage-area network, but rather simply teaches, suggests, and discloses that one of the host devices 202a and 202b – and not the subnet 200 – may be a storage-area network.

However, this resulting configuration of Bradley in view of Latif, without more, does not amount to *prima facie* obviousness of the claimed invention. That one of the host devices of Bradley in view of Latif, in other words, can be a storage-area network does not result in the claimed invention, in which the host devices are connected to a storage-area network. Because the Examiner has further not provided a reason that prompts one of ordinary skill within the art to modify the subnet of Bradley in view of Latif to be a storage-area network – instead relying upon phantom “teachings” of Bradley that say the subnet can be a storage-area network where Bradley does not actually say this – *prima facie* obviousness has just not been shown.

*Bradley in view of Latif does not teach host devices communicating with one another over a SAN*

Finally, referring again to FIG. 2A of Bradley, two host devices 202a and 202b are depicted as being connected to a subnet 200. For Bradley in view of Latif to read on the claimed invention, besides the subnet 200 having to be a storage-area network (which it is not, as has been discussed in the immediately preceding section of this Reply Brief), the host devices 202a and 202b actually have to communicate with one another over the subnet 200. That is, the claimed invention novelly allows two host devices to communicate with one another over a storage-area network – as opposed to, for instance, communicating with storage devices over a storage-area network, as is customary (as discussed in the Appeal Brief). Therefore, even if we take the Examiner’s statement at face value and say that the subnet 200 can be a storage-area network, the host devices 202a and 202b have to communicate *with one another* over the subnet 200 for Bradley in view of Latif to read on the claimed invention.

However, nowhere in Bradley in particular is it disclosed that the host devices 202a and 202b communicate with one another over the subnet 200. Rather, Bradley explicitly discloses the customary usage of the subnet 200 as a manner by which the host devices communicate with *other, storage-related* end nodes, such as the end nodes 212a and 212b which are directly connected to storage devices 214a and 214b. For instance, Bradley explicitly states that the host devices 202a and 202b are allowed “to communicate with other end nodes on the subnet 200, such as the end nodes 212a and 212b and the storage devices 214a and 214b connected to the end nodes 212a and 212b.” (Col. 5, ll. 30-33.)

In other words, the crux of Bradley in view of Latif even if the subnet 200 is considered a storage-area network as the Examiner asserts is still to use the resulting storage-area network no differently than storage-area networks are customarily used in the prior art – for host devices to communicate with storage-related devices, as opposed to for host devices to communicate with one another as in the claimed invention. For example, Bradley makes explicit reference to a special type of “key” 206a that “allows the host 202a to communicate with the end node 212a and the storage device 214a,” and a corresponding special type of “key” 206b that “allows the host 202b to communicate with the end node 212b and the storage device 214b.” (Col. 5, ll. 32-37.) By comparison, there is no reference in Bradley or in Latif that the host devices 202a and 202b communicate with one another over the subnet 200.

Applicant respectfully submits that it is no accident that Bradley in view of Latif, when their teachings, suggestions, and disclosures are taken together and read and considered as a whole, does not suggest the novel use of a storage-area network for two host devices to communicate with one another, where the storage-area network includes storage devices that explicitly do not include (i.e., in the parlance of the claim language, that are “exclusive of”) the host devices. This has been discussed in detail in the Appeal Brief, and Applicant avoids rehashing this issue here in as great detail to avoid redundancy and to curtail the length of the present Reply Brief for the benefit of the Board. It suffices here to simply underscore that the crux of the claimed invention is that a storage-area network, normally used for host devices to

communicate with storage devices, is instead novelly used for host devices to also communicate with one another.

It is this aspect of the claimed invention that Bradley in view of Latif does not read on at the end of the day. The Examiner has asserted that Bradley in view of Latif teaches this aspect of the invention in the explicit disclosure of Bradley in particular. However, looking at columns 1 and 2 of Bradley, upon which the Examiner originally relied to refute Applicant's arguments, as well as columns 4 and 5, upon which the Examiner now relies to refute Applicant's arguments, does not show any basis for the Examiner's assertion. There is simply no teaching, suggestion, or disclosure in Bradley in view of Latif, in other words, that the subnet 200, even if it were considered to be a storage-area network, is used by the host devices 202a and 202b to communicate with one another, as opposed to being used by the host devices 202a and 202b to communicate with the storage devices 214a and 214b, as is customary. Therefore, it cannot be said that the Examiner has satisfactorily shown *prima facie* obviousness of the invention.

Respectfully Submitted,



1-15-2008

Date

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